IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

1. UOI & Ors. Vs. Naseeb Rahman & Ors.
D.B. CIVIL WRIT PETITION NO.2698/2005

2. Om Singh & Anr. Vs. CAT, Jodhpur & Ors.
D.B. CIVIL WRIT PETITION NO.1447/2005

Date 08.03.2006

PRESENT

HON'BLE MR.JUSTICE RAJESH BALIA
HON'BLE MR. JUSTICE R.P. VYAS

Mr. Kamal Dave) for the petitioner.
Mr. S.K. Malik) for the petitioner/respondent.
Mr. Kuldeep Mathur for the respondents.

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By the Court : (PER HON'BLE RAJESH BALIA J.)

These matters come up on an application for bringing the documents on record, but the learned counsel for both the parties requested that these petitions may be disposed of at this stage itself. Accordingly, we heard both the writ petitions at this stage.

These two writ petitions arise out of the same order passed by the Central Administrative Tribunal, Jodhpur Bench, Jodhpur dated 23rd Sept., 2004 passed in Original

Application No.183/2003. The writ petition No.2698/2005 has been filed by the Union of India and the Writ Petition No.1447/2005 has been filed by the private respondents before the Tribunal whose appointments on the post of DMS-II were held to be not tenable.

It is common ground between the parties that the application filed by the applicant was confined to challenge the inter se seniority between him and the respondents No.4 and 5 Om Singh and Purkha Ram. The promotion of respondents No.4 and 5 on the post of DMS-II had not at all been under challenge. It appears that the Tribunal instead of considering the seniority aspect of the matter has gone into the question of validity of promotion offered to the respondents No.4 and 5 suo motu to the utter surprise of the parties. The review petition bringing out this fact to the notice of Tribunal was also rejected.

It is not disputed by the learned counsel for the respondent-applicant that the validity of promotions of Om Singh & Purkha Ram were not subject matter of challenge by him.

Apparently the Tribunal by itself could not have entered the field to examine the validity of promotion granted to non-applicant before it.

In these circumstances, it is apparent that the order of the Tribunal suffers from error apparent and cannot be sustained.

Accordingly, the writ petitions are allowed. The judgment under challenge is set aside and the order passed on review is also set aside. The Tribunal is directed to decide afresh the Original Application No.183/2003.

[R.P. VYAS], J. [RAJESH BALIA], J.

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